

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MR. JACOB SIMMONS, JR. : CIVIL ACTION
:
v. :
:
MS. JANET RUTH WALKER : NO. 13-4005

MEMORANDUM

BARTLE, J.

JULY , 2013

Jacob Simmons, Jr., a prisoner incarcerated at the State Correctional Institution at Graterford, filed this action against Janet Ruth Walker seeking annulment of their marriage and damages for alleged fraud. Currently before the Court is plaintiff's motion to proceed in forma pauperis. For the following reasons, the Court will deny the motion pursuant to 28 U.S.C. § 1915(g).

According to § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action or appeal in federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307, 310-11 (3d Cir. 2001) (en banc). Plaintiff accumulated three "strikes" for purposes of 28 U.S.C. § 1915(g) at the time he filed this action. See Simmons v. Commonwealth of Pa., Civ. A. No. 08-3400 (E.D. Pa. July 24, 2008 Memorandum and Order) (treating plaintiff as a "three-striker"); Simmons v. Ott, Civ. A. No. 94-4240 (E.D. Pa. July 13, 1994 Memorandum and Order) (dismissing complaint as

frivolous under 28 U.S.C. § 1915(d)); Simmons v. Ott, Civ. A. No. 94-2591 (E.D. Pa. May 9, 1994 Memorandum and Order) (same); Simmons v. Prison Health Servs., Civ. A. No. 93-5474 (E.D. Pa. Oct. 22, 1993 Memorandum and Order) (same); see also Keener v. Pa. Bd. of Prob. & Parole, 128 F.3d 143, 144-45 (3d Cir. 1997) ("[D]ismissals for frivolousness prior to the passage of the PLRA are included among [a plaintiff's] three [strikes].").

In light of his three strikes, plaintiff may not proceed in forma pauperis unless he was in imminent danger of serious physical injury at the time he filed his complaint. Nothing in the complaint suggests that plaintiff satisfies that standard. Accordingly, the Court will deny his motion to proceed in forma pauperis. An appropriate order follows.